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GARY D. McFARLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF
COURT GOVERNANCE

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No. 00-13

GENERAL ORDER

To provide for the governance of the United States District Court for the District of Nebraska,

IT IS ORDERED that:

1. Authority: This order is entered pursuant to 28 U.S.C. § 137 and the laws of the United States generally.
2. Scope: This order is intended to govern general judicial administration and court governance. This order is not intended to govern matters that bear directly upon the decision of individual cases. Such matters are left to the discretion of the judge or judges assigned to those individual cases.
3. Structure: With necessary modifications, it is the intention of the court to create a governance structure similar to the Judicial Conference of the United States.
4. The Role of the Regular Active District Judges: The ultimate responsibility for the governance of this court rests exclusively with the regular active district judges appointed by the President of the United States and confirmed by the Senate of the United States pursuant to the

Constitution and statutes. See, e.g., U.S. Const. Art. III; 28 U.S.C. §§ 132(b) & 137. This order shall be construed in conformity with this role.

5. The Role of the Chief Judge: The Chief Judge of the United States District Court (hereinafter “chief judge”) is responsible for the observance of the rules and orders adopted by the judges of this court. See 28 U.S.C. § 137. The chief judge performs other duties assigned to him or her by order, rule, custom, practice, or statute. This order shall be construed in conformity with this role.
6. The Role of Senior District Judges: When so designated and assigned by the Chief Justice, the chief judge of his or her circuit, the judicial council of his or her circuit, or the chief judge of his or her court, a senior district judge may continue to perform such judicial duties as he or she is willing and able to undertake. See 28 U.S.C. § 294(b)-(d). It is the intention of the United States District Court for the District of Nebraska to treat senior district judges regularly assigned to service in this court as important members of the court and participants in its governance.
7. The Role of Magistrate Judges: Magistrate Judges are judicial officers of this court. See 28 U.S.C. § 636. It is the intention of the United States District Court for the District of Nebraska to treat magistrate judges regularly assigned to service in this court as important members of the court and participants in its governance.
8. The Role of Bankruptcy Judges: Bankruptcy Judges are judicial officers of this court. See 28 U.S.C. § 151. It is the intention of the United States District Court for the District of Nebraska to treat bankruptcy judges regularly assigned to service in this court as important members of the

court and participants in its governance.

9. Formation of Judicial Council: There is hereby formed the Judicial Council of the United States District Court for the District of Nebraska ("Council"). The Council shall set the policies of the court regarding general judicial administration and court governance.
10. Members of the Council: Each district judge, whether in active or senior status, each magistrate judge, and each bankruptcy judge who are regularly assigned to this court are members of the Council. The clerk of the district court, the clerk of the bankruptcy court, the chief probation officer, and the chief pretrial service officer are ex officio non-voting members of the Council.
11. Relationship Between Chief Judge and Council: In the absence of a directive from the Council, the chief judge may set the policy of the court. Nevertheless, the chief judge will seek direction from the Council on all material policy matters relating to general judicial administration and court governance.
12. Supremacy: Each member of the Council and all employees shall follow the policies established by the Council. In the absence of a directive from the Council, each member of the Council and all employees shall follow the policies established by the chief judge.
13. Presiding Officer: The chief judge shall be the presiding officer at meetings of the Council. The chief judge may conduct the meeting of the Council in such manner as he or she deems appropriate.
14. Meetings of Council: At the date, time, and place selected by the chief judge, the Council shall meet. The Council shall meet at least three

times per year. Each judge and the clerk of the district court shall attend the meeting and be present throughout the meeting unless excused in advance by the chief judge for good cause. Except for the clerk of the district court, ex officio members are excused from attendance when the Council is considering matters that do not relate to their area of interest. Unless otherwise directed by the chief judge, the meetings shall commence at 9:00 a.m. and end no later than 1:00 p.m. Meetings of the Council will generally not be open to the public.

15. Voting: The chief judge, with the advice and consent of each regular active district judge, shall, at the time the agenda is distributed, decide and set forth in the agenda whether (A) an item is for decision by the regular active district judges only, or (B) whether an item is for decision by all judicial members of the Council. When an item is for decision by all judicial members of the Council, each judge shall have one vote and in the case of a tie vote, the decision of the chief judge shall prevail.

16. Agenda:

(A) An agenda for each meeting of the Council shall be prepared by the chief judge and distributed to Council members approximately 14 calendar days prior to a Council meeting. The chief judge shall first review the agenda with the active district judges in accordance with paragraph 15 so that each regular active district judge may decide which items, if any, will be for decision by the regular active district judges only.

(B) Any member of the Council may place an item on the agenda by making a request to the

chief judge 21 calendar days prior to the Council meeting. To place an item on the agenda, a member of the Council shall provide the chief judge with: (1) a statement of the issue; (2) if the Council will be requested to take specific action, a complete description of the action requested; (3) all documents that Council members will be asked to consider at the meeting. The chief judge will then include such information and materials with the agenda provided to Council members.

(C) Except in the case of an emergency, the Council will not consider an issue unless it was first placed on the agenda for that meeting in accordance with this order.

17. Minutes: Minutes of the Council meetings shall be prepared by the chief judge or his or her designate. The minutes will be distributed to each member of the Council and, unless otherwise directed, to all court employees, no later than 14 days after the meeting of the Council, if possible. The minutes of the Council meeting shall constitute the record of the proceedings of the Council.
18. Executive Committee of the Council: There is hereby formed an executive committee consisting of all the regular active district judges. The executive committee will act as the senior executive arm of the Council. In general, the executive committee shall perform functions similar to the Executive Committee of the Judicial Conference of the United States. In particular, the executive committee shall act for the Council when the Council is not in session. The chief judge shall be chair of the executive committee. In the event of a tie vote, the decision of the chief judge shall prevail.

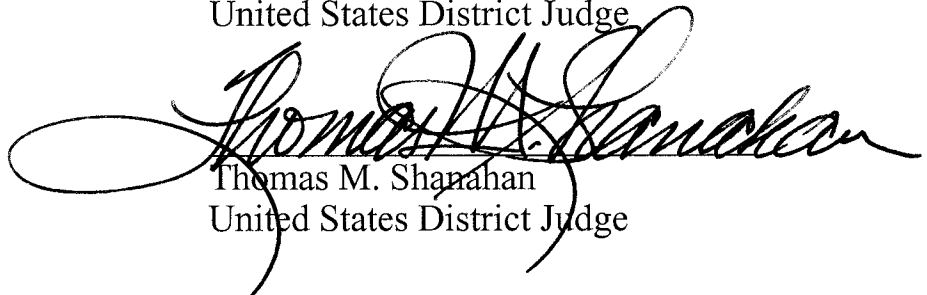
19. Other Council Committees: As needed, other committees may be created by the Council. Appointments to such committees shall be the prerogative of the chief judge. Such committees shall have the powers delegated to them by the Council.
20. Amendment: This order may be amended by a majority vote of the regular active district judges. In the event of a tie vote, the decision of the chief judge shall prevail.

July 31, 2000.

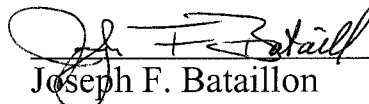
BY THE COURT:



Richard G. Kopf, Chief
United States District Judge



Thomas M. Shanahan
United States District Judge



Joseph F. Bataillon
United States District Judge

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